

JUDGMENT

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HUB LAW OFFICES

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

NO. 90-55288  
CT/AG#: CV-88-1786-JMI

**FILED**

OCT - 8 1991

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

VICKI J. AZNARAN; RICHARD N. AZNARAN

Plaintiffs-counter-defendants - Appellees

v.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC.,

Defendant

and

CHURCH OF SPIRITUAL TECHNOLOGY, INC.; RELIGIOUS  
TECHNOLOGY CENTER, INC.; AUTHOR SERVICES, INC.;  
CHURCH OF SCIENTOLOGY INTERNATIONAL, INC.;

Defendants-counter-claimants - Appellants

ENTERED  
CLERK, U. S. DISTRICT COURT

OCT 10 1991

CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

OCT 8 1991

APPEAL FROM the United States District Court for the  
Central District of California .

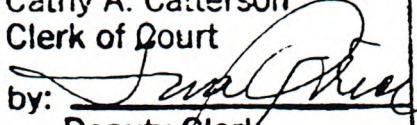
OCT 8 1991

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY *BB* DEPUTY

THIS CAUSE came on to be heard on the Transcript of the  
Record from the United States District Court for the  
Central District of California and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and  
adjudged by this Court, that the \_\_\_\_\_ judgment of the said  
District Court in this cause be, and hereby is AFFIRMED.

Filed and entered July 11, 1991

A TRUE COPY  
ATTEST OCT 01 1991  
Cathy A. Catterson  
Clerk of Court  
by:   
Deputy Clerk

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OCT 12 1991

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JUL 11 1991

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

VICKI J. AZNARAN; RICHARD N.  
AZNARAN,

NO. 90-55288  
D.C.# CV-88-1786-JMI

Plaintiffs-counter-  
defendants-Appellees,

vs.

MEMORANDUM\*

CHURCH OF SCIENTOLOGY OF  
CALIFORNIA, INC.,

Defendant,

and

CHURCH OF SPIRITUAL TECHNOLOGY,  
INC.; RELIGIOUS TECHNOLOGY CENTER,  
INC.; AUTHOR SERVICES, INC.; CHURCH  
OF SCIENTOLOGY INTERNATIONAL, INC.,

Defendants-counter-  
claimants-Appellants.

Appeal from the United States District Court  
for the Central District of California  
James M. Ideman, District Judge, Presiding

Argued and Submitted May 8, 1991  
Pasadena, California

BEFORE: TANG, REINHARDT and WIGGINS, Circuit Judges.

Vicki and Richard Aznaran are former high-ranking members of  
the Church of Scientology ("Scientology"). They left the church  
under circumstances that they describe as involving duress. They

\* This disposition is not appropriate for publication and may not  
be cited to or by the courts of this circuit except as provided by  
9th Cir. R. 36-3.



filed a complaint against Scientology alleging false imprisonment, intentional infliction of emotional distress and other tortious conduct. Scientology brought a motion for summary judgment<sup>1</sup> alleging that the Aznarans had signed releases relieving Scientology of any further liability when they left Scientology. The district court denied that motion and a subsequent motion for reconsideration on the basis that there were factual questions as to the validity of the releases.

Scientology then brought the instant motion for a preliminary injunction to prohibit: (1) the continuation of this lawsuit; (2) dissemination of information about the workings of Scientology; and (3) voluntary assistance of the Aznarans to third parties contemplating litigation against Scientology. Scientology argued that various provisions of the releases entitled it to this relief. The district court declined to grant the preliminary injunction. Scientology appealed. We affirm.

#### STANDARD OF REVIEW

"Review of a ruling on a motion for a preliminary injunction is "very limited"". Diamontiney v. Borg, 918 F.2d 793, 795 (9th Cir. 1990) (quoting Oakland Tribune, Inc. v. Chronicle Publishing Co., 762 F.2d 1374, 1376 (9th Cir. 1985)). "A grant of a preliminary injunction will be reversed only where the district court abused its discretion or based its decision on an erroneous legal standard or clearly erroneous factual findings." Diamontiney, 918 F.2d at 795.



## DISCUSSION

We first address Scientology's contention that the district court should have preliminarily enjoined the litigation. Although the parties have raised a number of issues regarding the first amendment's protection of the free exercise of religion and its prohibition against the establishment of religion, as well as issues relating to the enforceability of the waiver, there is a basic flaw in Scientology's position which makes it unnecessary for us to reach these issues. A preliminary injunction is temporary relief. If granted, it remains in effect only until the district court renders judgment on the merits of the case after trial. Sports Form, Inc. v. United Press Int'l, 686 F.2d 750, 753 (9th Cir. 1982). Here, however, Scientology seeks to enjoin the case from proceeding to trial. If such relief were granted it would necessarily be permanent relief because it would remain in effect until the trial is completed -- and of course the trial could never be completed because it would be enjoined from ever taking place. Since Scientology has not demonstrated that it is entitled to permanent relief, the district court did not err by denying its motion to enjoin the litigation.<sup>1/</sup>

We next address Scientology's claim that it was entitled to a preliminary injunction enforcing the confidentiality and non-

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<sup>1/</sup> We do not suggest that such relief could in any event be obtained through the vehicle of a preliminary injunction. The appropriate procedure for terminating litigation before trial is a summary judgment motion. Scientology brought such a motion but the district court denied it, and subsequently denied Scientology's motion for reconsideration of its decision. Neither the original decision nor the denial of the reconsideration motion may be reviewed on an interlocutory appeal.



assistance provisions of the releases. "At a minimum, a [party] seeking preliminary injunctive relief must demonstrate that it will be exposed to irreparable harm." Caribbean Marine Servs. Co. v. Baldrige, 844 F.2d 668, 674 (1988); see also Los Angeles Memorial Coliseum Comm'n, 634 F.2d 1197, 1203 (9th Cir. 1980).

Scientology argues that in the absence of a preliminary injunction enforcing the confidentiality and non-assistance provisions of the releases, there is a possibility that it will suffer irreparable injury. However, the releases which it prepared provide liquidated damages for violation of these provisions. Thus, under the agreement it drafted, any injury that would result from a breach would be compensable. Purely monetary injuries are not considered irreparable. See Lydo Enterprises, Inc. v. City of Las Vegas, 745 F.2d 1211, 1213 (9th Cir. 1984); Sampson v. Murray, 415 U.S. 61, 90 (1974) ("'Mere injuries, however substantial, in terms of money, time and energy necessarily expended . . . are not enough'" to constitute irreparable injury) (quoting Virginia Petroleum Jobbers Ass'n v. Federal Power Comm'n, 259 F.2d 921, 925 (D.C. Cir. 1958)).

Nonetheless, according to Scientology, the Aznarans are judgment-proof, and as a result will be unable to provide monetary compensation for a breach. Thus, Scientology argues, this case provides an exception to the general rule that injuries which are compensable in money are not irreparable. We note initially that even if the Aznarans were judgment-proof, that would not necessarily entitle Scientology to relief in this case, at least in the absence of some showing that their financial status had



changed since the waivers were prepared and signed. Scientology was apparently aware of the Aznarans' financial situation when it agreed to the liquidated damages clauses in the waivers it drafted and now invokes.

Moreover, the district court made a factual finding that the Aznarans are not judgment-proof. Scientology contests this finding by pointing out that the Aznarans could not afford to hire an attorney. However, that is not necessarily inconsistent with their ability to pay whatever judgment might ultimately be rendered against them. The finding that the Aznarans are not judgment-proof is not clearly erroneous, and the determination that Scientology has not met its burden with respect to the irreparable harm issue was not an abuse of discretion.

Finally, the Aznarans argue that we should impose sanctions against Scientology because this appeal is frivolous. Fed. R. App. P. 38. Scientology has presented many strong arguments. While these arguments were unsuccessful, they are not frivolous. The request for sanctions is denied.

The judgment of the district court is

AFFIRMED.

